REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 2-3, 5-7, 9 and 11 are pending in the application. Claims 4, 8 and 10 are canceled without prejudice or disclaimer; and Claims 2-3, 5-7, 9 and 11 are amended. Support for amended Claims 2-3, 5-7, 9 and 11 can be found in the original specification, claims and the drawings.[1] Thus, no new matter is added.

In the outstanding Office Action, Claims 2-11 were rejected under 35 U.S.C. §103(a) over <u>Agresta</u> et al. (US PGPub 2002/0091848 A1, hereafter <u>Agresta</u>) in view of <u>Hegde</u> et al. (US PGPub 2002/0007418 A1, hereafter <u>Hegde</u>).

In response to the rejection of Claims 2-11 under 35 U.S.C. §103(a), Applicant respectfully requests reconsideration of this rejection and traverses the rejection, as discussed next.

Applicant respectfully submits that amended independent Claims 2, 3, 6-7 and 9 recite novel features clearly not taught or rendered obvious by the applied references.

Briefly summarizing, Applicants' invention, as recited in Claim 2, relates to a content delivery method for a content delivery system for delivering content from a content delivery apparatus to a content processing apparatus over a network. The method includes presenting a list of available content on the content processing apparatus. At least some content is to be delivered by streaming, and at least some by downloading. A set of content is specified as the set of content to be delivered. The content processing apparatus *receives from the content delivery apparatus a startup file specifying streaming or downloaded file as a method of content delivery, said startup file corresponding to a license of the specified set*

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[1] Claims 2-3, 5-7, 9 and 11 are amended to recite a "startup file...corresponding to a license of a set of content," as described for example in the Applicant's Abstract and specification on page 10, lines 7-10. The correspondence of the startup file to a set of content is illustrated for example in Applicant's Figure 6.

*of content.* The content processing apparatus *automatically* acquires this content via streaming or downloading, *without receiving a user input selecting streaming or downloaded file as method of content delivery.* Instead, the delivery method is determined according to the startup file.

Independent Claims 3, 6-7 and 9, while directed to alternate embodiments, are amended to recite a startup file specifying streaming or downloaded file as a method of content delivery, said startup file corresponding to a license of the specified set of content, and recite a feature of automatically acquiring content according to the startup file.

Turning to the applied reference, Agresta describes a content delivery system for delivering content from a content server to a receiving terminal by way of a network. Agresta's invention is tailored for storing, selecting, accessing and playing musical media.[2] In contrast to the Applicant's invention, "the user [has] the option of 'streaming' [content] to the terminal ... or downloading the selection onto the memory of the terminal."[3] After the user selects the desired content to acquire, the "user then will have two options. One is to stream the [content]. The second option is ... to download the full [content]."[4] Agresta describes that the user must select one of the content delivery options: streaming or downloading. Thus, Agresta describes a specific approach for selecting the method of content delivery. This approach requires a user to explicitly select the method at the content receiving terminal, rather than receiving a file from the content server that specifies the method of content delivery. Therefore, Agresta does not teach or suggest receiving by the content processing apparatus from the content delivery apparatus a *startup file specifying streaming or downloaded file as a method of content delivery, said startup file*

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[2] Agresta, paragraph [0019], lines 25-26.
[3] Agresta, paragraph [0025], lines 4-7.
[4] Agresta, paragraph [0055], lines 7-10.

*corresponding to a license of the specified set of content*, as required by independent Claims 2, 3, 6-7 and 9.

Turning now to the secondary reference, Hegde describes a method and a system for delivery and monitoring an on-demand play list over a network and providing content from an origin server to a requesting device.[5] A play list is delivered to a requesting device over a network in an optimized manner.[6] Then, attributes of the requesting device, such as the operating system, a bandwidth parameter and the presence of a firewall, are determined.[7] Hegde then uses these collected attributes to determine the method of delivery, whether streaming of downloading.[8] Thus, Hegde describes a method of acquiring certain attributes of the requesting device, and using these attributes to determine the method of delivery, rather than using a file corresponding to the license of selected content to determine the delivery method. Therefore, Hegde does not teach receiving a file by the requesting device, where the file specifies the downloading method, and the file corresponds to a license of selected content. Consequently, Hegde does not teach or suggest *receiving from the content delivery apparatus a startup file specifying streaming or downloaded file as a method of content delivery, said startup file corresponding to a license of the specified set of content*, as required by independent Claims 2, 3 and 6-9.

Accordingly, for at least the reasons discussed above, Applicant respectfully submits that independent Claims 2, 3, 6-7 and 9, and any claims depending therefrom patentably define over the applied references, and respectfully requests the rejection of Claims 2-3, 5-7, 9 and 11 under 35 U.S.C. §103(a) be withdrawn.

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[5] Hegde, Figure 5.
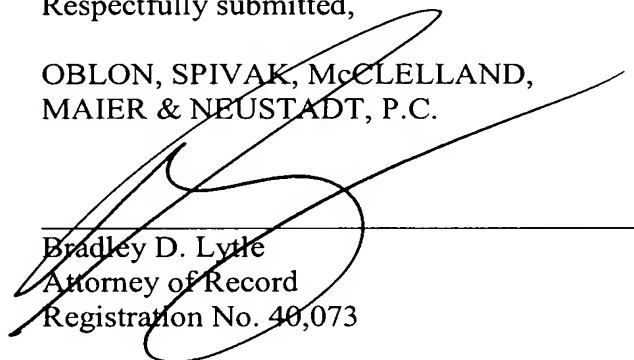[6] Hegde, paragraph [0007], lines 1-4.
[7] Hegde, paragraph [0008], and Figure 12.
[8] Hegde, paragraph [0084], lines 2-7.

Consequently, in view of the present amendment, Applicant respectfully submits that the present application is in condition for allowance, and an early action favorable to that effect is earnestly solicited. Should the Examiner deem that any further action is necessary to place this application in even better form for allowance, the Examiner is encouraged to contact Applicant's undersigned representative at the below listed telephone number.

Respectfully submitted,

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